

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15414 of Maureen Flanagan and William Merritts, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the minimum side yard requirements [Paragraph 2001.3(c)], and a variance from the side yard requirements (Sub-section 405.9) for an addition to an existing nonconforming single-family dwelling in an R-1-B District at premises 3417 Lowell Street, N.W., (Square 2089, Lot 2).

HEARING DATE: January 16, 1991
DECISION DATE: February 6 and March 6, 1991

DISPOSITION: The Board **GRANTED** the application by a vote of 3-0 (Sheri M. Pruitt, Charles R. Norris and Carrie L. Thornhill to grant; John G. Parsons and Paula L. Jewell abstaining).

FINAL DATE OF ORDER: July 19, 1991

ORDER

The Board granted the application by its Order dated July 19, 1991. On August 1, 1991, the adjacent property owners, parties in opposition to the application, filed a timely motion for reconsideration of the Board's decision or for rehearing of the application. The motion for reconsideration alleges that the Board made errors in its Findings of Fact Nos. 4, 6, 8, 9, 10, 12, 16, 17, 20, 22, 23, 24, 26, 27, 51, 52, 53, 54, 55, 56, and 57; that the Board failed to include certain evidence as findings of fact; and that the conclusions of law and opinion are based on erroneous and omitted findings of fact and are significantly in error. In summary, the opposition contends as follows:

- a. The Board erroneously found the property unique by basing its findings on factors that are not unique or are inaccurate.
- b. The Board applied an unlawfully lax version of the practical difficulty element of the variance test.
- c. The Board ignored opposition's argument that an affirmative act by the applicants caused a self-created hardship and should be grounds for denial of the application.
- d. The Board failed to show that the granting of the

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requested relief will not cause detriment to the public good nor harm to the the zoning plan.

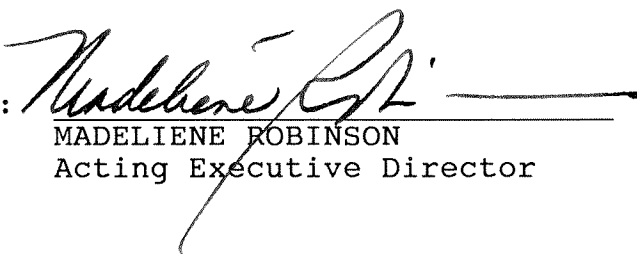
By letter dated August 8, 1991, counsel for the applicants opposed the motion for reconsideration or rehearing. Counsel for the applicants argued that the motion essentially reargues the case, offers no new evidence, and that the Board's order adequately addresses the relevant matters of fact and applicable law.

Upon review of the motion, response thereto, the evidence of record, and its final order, the Board concludes that the motion provides no evidence of a substantive nature that the Board has not previously considered but merely seeks to reargue the opposition's case. The Board concludes that the issues raised were thoroughly presented at the public hearing and were addressed in the final order. The Board's decision was based on its consideration of all the evidence presented by both the applicants and the opposition. The fact that the Board and the opposition came to different conclusions does not make the judgement of the Board, arbitrary, capricious or unlawful. The Board further concludes that no new evidence has been presented which would warrant a rehearing of the case. Accordingly it is **ORDERED** that the motion for reconsideration or rehearing is hereby **DENIED**.

VOTE: 5-0 (Sheri M. Pruitt, Charles R. Norris, Paula L. Jewell, John G. Parsons and Carrie L. Thornhill to deny).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE ROBINSON
Acting Executive Director

FINAL DATE OF ORDER: _____

SEP 30 1991

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 30 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE ROBINSON
Acting Executive Director

DATE: _____

SEP 30 1991

15414Att/bhs